

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

|                               |   |                      |
|-------------------------------|---|----------------------|
| In the Matter of              | ) |                      |
|                               | ) |                      |
| WIA PETITION FOR RULEMAKING,  | ) | WT Docket No. 19-250 |
| WIA PETITION FOR DECLARATORY  | ) | RM-11849             |
| RULING, AND CTIA PETITION FOR | ) | WC Docket 17-84      |
| DECLARATORY RULING            | ) |                      |

**COMMENTS OF MARYLAND MUNICIPAL LEAGUE**

These comments are filed by the Maryland Municipal League in response to the public notice, released September 13, 2019, in the above-entitled proceeding.

**INTRODUCTION**

The Maryland Municipal League urges the Commission to exercise caution as it works to facilitate the widespread deployment of small wireless infrastructure throughout the nation. The Maryland Municipal League and our member cities and towns are currently working with wireless companies to come to mutually agreeable solutions on the deployment of small wireless facilities in our communities; therefore, we strongly oppose any further federal regulations that impede local governments from exercising the land use authority granted to them to facilitate the siting of small wireless infrastructure in their jurisdictions.

We ask that the Commission avoid placing any additional restrictions on municipalities as they collaborate with their local wireless carriers and infrastructure providers to integrate this technology into their communities; including but not limited to those referenced in the petitions mentioned above.

The WIA and CTIA petitions strike a serious challenge to local government authority to exercise the full extent of their land use authority. Despite the fact that an FCC Order favorable to the wireless industry went into effect in January 2019 and still remains under legal challenge by local governments as of this writing, WIA and CTIA filed a petition to further alter federal regulations in favor of the wireless companies. We contend that additional regulations that limit local leaders from performing their duty to act in the best interest of the residents of their community should be avoided.

## **Local Preemption**

Section 6409(a) of the Spectrum Act provides for a mandatory approval, by a governing jurisdiction, of an eligible facilities' request of an existing structure that does not substantially change the physical dimensions of the tower or base station. In our reading of the petitions, the wireless industry seeks to have the rules interpreting what constitutes a "substantial change" altered in a fashion that would more easily allow an eligible facilities' request to qualify for mandatory approval. The Maryland Municipal League opposes this type of proposal as it would further circumvent local discretion.

## **Visual Aspects of a Small Wireless Facility**

Many municipalities in Maryland have already published aesthetic standards or adopted ordinances, many of which contain aesthetic elements based on the FCC's 2018 Order. Maintaining the authority to shepherd small wireless facilities into local communities in a manner that fits visually is critically important to our membership, and it is our contention that several aspects of these petitions will diminish that authority. In particular, the requests to limit the definition of "concealment element," shrink the interpretation of what constitutes an "equipment cabinet," expand the term "base station" to include the entire building or structure, and discard the notion that number and size of antennas is irrelevant to whether a change is substantial or not are all extremely problematic for our cities and towns. Our municipalities value their community aesthetics and have gone to great lengths to guide these facilities to blend into their community's character.

## **Poles**

It is common in Maryland to have a scenario where a utility-owned light pole is placed in a municipal right-of-way and therefore be subject to any municipal laws or regulations governing the use of the right-of-way or agreements between the municipality and utility. Requests in the petitions to allow for mandatory access to light poles on terms and conditions dictated by the federal government unravels carefully crafted work done at the local level with the agreement of both utilities and municipalities. We see this as further erosion of local authority to govern an area in which local governments and utilities have mutually operated for years.

## **CONCLUSION**

The Maryland Municipal League strongly urges the Commission to avoid adding additional regulations that tie the hands of local leaders on the important issue of siting small wireless infrastructure. In addition to acute concerns with these particular petitions, the Maryland Municipal League opposes any attempt to limit or preempt local authority; whether through federal regulation, state legislation, or any other method.

Thank you for the opportunity to submit comments on these petitions and the siting of small wireless infrastructure. We strongly urge the Commission to consider our comments, as well as those submitted by communities across the country, before taking any action that may adversely affect local governments' ability to exercise their land use authority.

Respectfully submitted,  
Maryland Municipal League

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